

Baltimore, Md., June 5th, 1907.

The Board of Public Works of Maryland met this day at noon, in Room 602, Fidelity Building, Baltimore. Present: Governor Warfield, Comptroller Atkinson and Treasurer Vandiver.

Frank I. Clark appeared before the Board on behalf of the Norfolk and Western Railway Company, and presented the following petition and accompanying papers, plats, &c.

PETITION OF THE NORFOLK & WESTERN RAILWAY COMPANY
TO THE BOARD OF PUBLIC WORKS OF MARYLAND, FOR LEAVE
TO BUILD A BRIDGE OVER THE POTOMAC RIVER NEAR
SHEPHERDSTOWN, WEST VIRGINIA, CROSSING THE CHESAPEAKE
& OHIO CANAL.

To the Honorable the Board of Public Works of the State of Maryland:

Your petitioner, the Norfolk & Western Railway Company, respectfully prays your honorable Board for leave to construct, maintain and operate a bridge over the Potomac River and the Chesapeake and Ohio Canal, near Shepherdstown, West Virginia, and in compliance with Section 264 Article 23 of the Code of Public General Laws of Maryland, it files herewith the following papers:

(1) One blue print of a map numbered 7725 showing the crossing of the said canal and river, marked Exhibit "A".

(2) One blue print of map 7746 showing the general crossing that the Board may be more fully informed as to the details of such crossing, marked Exhibit "B".

(3). A copy of the Act of Congress passed on February 5th, 1907, authorizing the said Norfolk and Western Railway Company to construct, maintain and operate a bridge and approaches thereto across the said river at or near Shepherdstown, West Virginia, marked Exhibit "C".

(4) Copies of correspondence between the officials of the Norfolk & Western Railway Company and the Chesapeake and Ohio Canal Company showing that the plans of the said bridge have been submitted to the latter Company and by it approved, marked Exhibit "D".

The original of the above letters are herewith submitted to the Board that the copies thereof may be duly verified. After such verification your petitioner respectfully asks that the originals be returned to it to be filed with the records of the Company.

The object and purpose of your Petitioner in erecting this new bridge, is to straighten its track, and reduce the curves at that point, and thus to remove serious obstacles to the efficient operation of its road--all of which will fully appear by reference to Exhibits "A" and "B" herewith filed.

Any further details or information that your Honorable Board may desire will be furnished upon demand.

In support of this application your Petitioner shows to your Honorable Board that it has full authority from the State of Maryland by an Act of the General Assembly passed on the 4th, day of April, 1870, to erect such a bridge, to which Act you are referred.

Your Petitioners pray that the Board will signify its approval of the plan submitted and will notify the Company in writing of such approval, as required by the Section 264 Article 23 of the Code of Public General Laws.

AND YOUR PETITIONER WILL EVER PRAY, ETC.

NORFOLK & WESTERN RAILWAY COMPANY

by Frank P. Clark, Attorney for said Company.

"Exhibit C"

An Act to authorize the Norfolk and Western Railway Company to construct a bridge across the Potomac River, at or near Shepherdstown, West Virginia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Norfolk and Western Railway Company, a corporation organized under the laws of the State of Virginia, its successors and assigns, be, and they are hereby authorized in the improvement and relocation of its line, to construct, maintain, and operate a bridge and approaches thereto across the Potomac River, at or near Shepherdstown, West Virginia, where the Potomac River forms the boundary line between the States of West Virginia and Maryland, in accordance with the provisions of the Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March twenty-third, nineteen hundred and six.

Sec. 2. That the right to alter amend, or repeal this Act is hereby expressly reserved.

Approved, February 5, 1907.

"Exhibit D"

Washington, D. C. Feb. 1st, 1907.

Major C. C. Taliaferro,
Right of Way Agent,

Dear Sir:

Referring to our conference of this morning in regard to right of way for Norfolk and Western Railway Company over the Chesapeake and Ohio Canal on the proposed change in line at Shepherdstown. If you would have your engineers prepare a detailed plan showing simply the crossing of the canal on a large scale, and plat of canal for a short distance above and below the R. R. crossing so that we can have a plan in elevation as well as a plat showing the details of construction etc., distance from the face of piers to the water line of canal. I will be glad to take the matter up with the Trustees and get as prompt consideration as possible. Personally, I haven't the right to sign the permit unless specially authorized to do so.

Very truly yours,

C. L. Nicolson, General Manager.

Washington, D. C. May 11, 1907.

Mr. Chas. S. Churchill,
Chief Engr. N. & W. Ry. Co.,
Roanoke, Va.

Dear Sir:-

Major C. X. Taliaferro called yesterday and left with me blue prints Nos. 7746 and 7725 showing the proposed change of your line across the Potomac River and the Chesapeake & Ohio Canal at Shepherdstown, W. Va.

I wish to inform you that the plans showing only 6 feet width of tow-path, at the corner of pier on tow-path embankment will have to be changed. We must have at least 9 feet. This can be accomplished either by moving the pier back, or we might consider a substantial wall on the canal side of the tow path running back to tow path above and below the pier, 40 or 50 feet each way. It will also be necessary to provide a fender to prevent the light boats running into the pedestal shown in the waterway on the berme side. I would be glad if you would submit plans showing the necessary changes.

If you obtain the approval of the Board of Public Works for the

State of Maryland, there will be no objection on the part of the Trustees of the canal to the crossings, with the modifications above mentioned. It will be necessary to procure the approval of the Board of Public Works before you can cross the Potomac River.

Very truly yours,

C. L. Nicolson, General Manager.

Roanoke, Va. May 13, 1907.

Mr. G. L. Nicolson,

Gen. Mgr., Chesapeake & Ohio Canal,

Washington, D. C.

Dear Sir:-

Your letter of the 11th, inst. in regard to making a wider tow path along the canal where our pier is located.

We will agree to build a wall along the canal such as you suggest and I have made a change in plan 7725 so as to show this wall and so as to provide a width of tow path of ten ft. I trust this will be entirely satisfactory to you.

Yours truly,

Chas. S. Churchill, Ch. Engineer.

Washington, D. C., May 17, 1907.

Mr. Chas. S. Churchill,

Chief Engr. N. & W. Ry. Co.,

Roanoke, Va.

Dear Sir:

I have yours of the 13th, with attached blue print showing the proposed wall on the inner slope of tow path at your proposed crossing making width of tow path 10 feet on surface; also the protection on berm side around pedestal. It will not be necessary to provide as high protection on the berme side. A stout timber on either side as a fender at water line is all that is necessary. This fender is as essential for your protection as it is for the boats. Boats hammering on the pedestal will unquestionably damage it.

The plans as submitted are satisfactory. You will, however, have to obtain the approval of the Board of Public Works for the crossing of the Potomac River, as well as the canal.

Very truly yours,

C. L. Nicolson, General Manager.

Roanoke Va., May 19th, 1907.

Mr. G. L. Nicolson,
General Manager, Chesapeake & Ohio Canal,
Washington, D. C.

Dear Sir:

I beg to acknowledge receipt of and to thank you for your letter of May 17th, approving plan 7725 of crossing the Chesapeake and Ohio Canal at Shepherdstown, subject to the approval of the Board of Public Works. These plans will be presented to the Board of Public Works as soon as possible.

Yours truly,

Chas. S. Churchill, Chf. Engineer.

Mr. Clark explained that the permission which the Norfolk and Western Railway Company desires is to erect a bridge over the Potomac River and the Chesapeake and Ohio Canal, near Shepherdstown, West Virginia, for the purpose of straightening its track and cutting out curves, both on the Maryland side and also on the West Virginia side, and therefore, to more efficiently operate its road. He stated that on April 4th, 1870, the Legislature of Maryland had granted to the Norfolk and Western Railway Company permission to bridge the Potomac River, between Harper's Ferry and Shepherdstown, at such point as might be necessary; that under this power the present bridge was constructed, and that the permission which the Company desires is asked under this Act of 1870, which is still in effect. The necessary authority from the U. S. Government, entitled "An Act to authorize the Norfolk and Western Railway Company to construct a bridge across the Potomac River, at or near Shepherdstown, West Virginia," was passed by Congress at the last session, and approved by the President, February 5th, 1907. A copy of said Act was filed by Mr. Clark as an Exhibit in this case.

On motion of Treasurer Vandiver, seconded by Comptroller Atkinson, the following resolution was unanimously adopted,

WHEREAS, At a meeting of the Board of Public Works of the State of Maryland held on the fifth day of June, 1907, there was presented for the consideration of the Board a petition from the Norfolk and Western Railway Company, setting forth its desire to construct, maintain and operate a bridge over the Potomac River and the Chesapeake and Ohio Canal, near Shepherdstown, West Virginia; and having complied

with Section 264, Article 23, of the Code of Public General Laws of Maryland, by filing with the Board the plan of the said bridge and other fixtures for crossing such canal and river, designating the place of crossing; and having established to the satisfaction of the Board that it has full authority from the General Assembly of the State of Maryland to erect such bridge and that, by Act of Congress passed on February 5th, 1907, it is fully authorized and empowered to construct, maintain and operate the same and approaches thereto; and having satisfied the Board that the object and purpose had in view is to straighten its track and reduce the curves and so remove obstacles now existing in the efficient operation of the said road:

RESOLVED, that this Board does hereby signify its approval of the plans so submitted and does hereby authorize, in compliance with the provisions of the Section of the Code heretofore referred to, the said Norfolk and Western Railway Company to construct, maintain and operate the said bridge.

At the request of Mr. Clark, the Secretary of the Board was directed to furnish a certified copy of the above resolution, properly authenticated, to Mr. Clark.

The Governor presented to the Board the following communication which he had received from Attorney General Bryan in response to the letter to Mr. Bryan, copy of which is hereto appended.

Fidelity Building, Baltimore, Maryland,

April 18th, 1907.

Hon. William S. Bryan, Jr.,

Attorney General of Maryland,

Maryland Telephone Building,

Baltimore, Maryland.

My dear Sir:

At a final meeting to-day of the gentlemen composing the State Tobacco Warehouse Building Commission, created under Chapter 804 of the Acts of 1906, which has been declared unconstitutional by the Court of Appeals, Governor Warfield was requested by those present to ask you to confer with him in reference to the power of the Board of Public Works under Chapter 426 of the Acts of 1904, to continue the work inaugurated by the State Tobacco Warehouse Building Commission.

The Governor was also directed to request you to confer with him as to the payment of the necessary expenses incurred by the State

Tobacco Warehouse Building Commission up to the time of the receipt by the Commission of your letter of January 7th, advising that no further steps be taken by that body until the suit was settled.

If you have a copy of the decision of the Court of Appeals, in this case, I would be obliged if you would let me have it for a few days, in order that it may be copied into the minutes of the Commission.

Very truly yours,

R. S. Hart,

Secretary to the Governor.

Baltimore, May 29, 1907.

Dear Sir:

Press of other matters has delayed my answering the letter of April 18th, 1907, from your Secretary, Mr. R. S. Hart.

When the Court of Appeals declared Chapt. 804 of the Acts of 1906 to be unconstitutional their action necessarily causes Ch. 426 of the Acts of 1904 to remain an existing and operative Statute.

The Board of Public Works can, therefore, now do any of the things authorized by Section 2 of Ch. 426 of the Acts of 1904.

The bona fide necessary expenses incurred in the belief that Ch. 804 of the Acts of 1906 was a valid law can ~~be~~ lawfully be paid out of any available contingent fund of either the Board of Public Works or of the Governor.

If there is no available money in any such contingent fund then these expenses will have to remain unpaid until the next General Assembly convenes. The sense of justice of that body will very probably cause it to make some provision for paying these necessary expenses.

I have no copy of the opinion of the Court of Appeals in the case of Christmas vs. Warfield, in which Ch. 804 of the Acts of 1906 was held unconstitutional.

If you desire a copy of that opinion you can obtain it from the Clerk of the Court of Appeals.

Yours very truly,

Signed, William S. Bryan, Jr.,

Attorney General.

Hon. Edwin Warfield,
Governor of Maryland.

Whereupon the following communication from Messrs. Baldwin & Pennington, the architects employed by the State Tobacco Warehouse Building Commission of Maryland, under authority conferred upon them by Chapter 804 of the Acts of 1906, subsequently declared unconstitutional by the Court of Appeals of Maryland, was submitted by Mr. Josias Pennington of said firm.

June 3rd, 1907.

Hon. Edwin Warfield,

Governor of Maryland,

Chairman State Tobacco Warehouse Commission, etc.

Dear Sir:

As requested, we give you a statement of the work done by us in connection with the contemplated construction of the proposed State Tobacco Warehouse Building.

In the event of this work being carried on we propose to furnish our professional services in accordance with the schedule of practice of the American Institute of Architects, copy of which is hereto attached, for the same rate of compensation for which we have been doing other work for the State, namely 5% on the cost of the work, including the preliminary drawings, survey, estimates, sketches, and other work required in connection with the construction and completion, but in the event of the work being abandoned our charge would be based upon services rendered in accordance with the usual professional practice.

For this particular work up to this present time we reckon the amount of our services rendered as follows:-

Examinations, surveys and plans made of old buildings	\$200.
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Alterations, additions and repairs to old buildings upon the basis of the following estimates	
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for No. 4	\$19,000
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For No. 5	\$22,000
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For No. 3	\$26,000
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Total	\$67,000
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Reckoning at 3/4 of 1% say	\$500
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Plans specifications, instructions, etc. for boring wells for testing foundations, etc.	\$100
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Plats and specifications for taking down old buildings, advertising, receiving bids for same	\$50
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Plans made for building north side of Conway St. with an estimate of capacity and cost of construction showing the difference between a 6, 8, 9, & 10 story construction,

Estimated cost of work done by us for which no
use can be made

\$250.
\$1100.

Plans and specifications with estimate of capacity
and cost showing the difference between a 6, 8 & 9
story building for the south side of Conway St.
The estimated cost of same at \$250,000.00

Our compensation upon the completion
of the work whuld be reckoned at 5%
making \$ 12,500.00

Over one half of our work has been completed
we reckon the amount due us in the event of
the work being abandoned

\$6000.
\$7100.

Total,

We will be glad if you will make us such payment on account
of this work as you may think proper the understanding being that
such payment will be credited against services to be rendered in
the future, when the Commission may take up the question of con-
structing the building.

Yours very truly,

Baldwin & Pennington.

PROFESSIONAL PRACTICE OF ARCHITECTS, and
SCHEDULE OF USUAL AND PROPER MINIMUM CHARGES.

The architect's professional services consist in making the
necessary preliminary studies, working drawings, specifications,
large scale and full size details, and in the general direction and
supervision of the work, for which the minimum charge is five per
cent upon the cost of the work.

For new buildings, costing less than ten thousand dollars, and
for furniture, monuments, decorative and cabinet work, it is usual
and proper to charge a special fee in excess of the above.

For alterations and additions to existing buildings, the fee is
ten per cent. upon the cost of the work.

Consultation fees for professional advice are to be paid in
proportion to the importance of the questions involved.

None of the charges above enumerated covers alterations and ad-
ditions to contracts, drawings and specifications, nor professional
or legal services incidental to negotiations for site, disputed party
walls, right of light, measurement of work, or failure of contractors.
When such services become necessary, they shall be charged for ac-
cording to the time and trouble involved.

Where heating, ventilating, mechanical, electrical and sanitary
problems in a building are of such a nature as to require the assistance
of a specialist, the owner is to pay for such assistance. Chemical
and mechanical tests, when required, are to be paid for by the
owner.

Necessary traveling expenses are to be paid for by the owner.

Drawings and specifications, as instruments of service, are
the property of the architect.

The architect's payments are due as his work progresses in the
following order: Upon completion of the preliminary sketches,
one fifth of the entire fee; upon completion of working drawings
and specifications, two fifths; the remaining two-fifths being due

from time to time in proportion to the amount of work done by the architect in his office and at the building.

Until an actual estimate is received, the charges are based upon the proposed cost of the work, and payments are received as installments of the entire fee, which is based upon the actual cost to the owner of the building or other work, when completed, including all fixtures necessary to render it fit for occupation. The architect is entitled to extra compensation for furniture or other articles purchased under his direction.

If any material or work used in the construction of the building be upon the ground or come into the owner's possession without expense to him, its value is to be added to the sum actually expended upon the building before the architect's commission is computed.

In case of the abandonment or suspension of the work, the basis of settlement is as follows: Preliminary studies, a fee in accordance with the character and magnitude of the work; preliminary studies, working drawings and specifications, three-fifths of the fee for complete services.

The supervision of an architect (as distinguished from the continuous personal superintendence which may be secured by the employment of a clerk of the works) means such inspection by the architect, or his deputy, of work in studios and shops, or of a building or other work in process of erection, completion or alteration, as he finds necessary to ascertain whether it is being executed in conformity with his drawings and specifications or directions. He is to act in constructive emergencies, to order necessary changes and to define the true intent and meaning of the drawings and specifications, and he has authority to stop the progress of the work and order its removal when not in accordance with them.

On buildings where the constant services of a superintendent are required, a clerk of the works shall be employed by the architect at the owner's expense.

Glenn Brown, Secretary, A. I. A.,
The Octagon, Washington, D. C.

As revised at Cleveland Convention, October, 1903.

After a discussion of the amount which should be paid Messrs. Baldwin & Pennington at this time, the following resolution was adopted:

WHEREAS, Messrs. Baldwin & Pennington, of Baltimore City, were employed by the State Tobacco Warehouse Building Commission of Maryland, created by Chapter 804 of the Acts of 1906, to act as the architects of said commission; and

WHEREAS, in addition to the work said Messrs. Baldwin & Pennington performed in drawing the plans and specifications for the proposed new warehouse under said Act, they have also done a large amount of work in estimating on the cost of the proposed repairs to the present State warehouses, &c; and

WHEREAS, said Act has been declared unconstitutional by the Court of Appeals of Maryland;

THEREFORE, BE IT RESOLVED, that the Comptroller of the State Treasury is hereby authorized and directed to draw his warrant in

favor of Messrs. Baldwin & Pennington for \$1100. in payment for the services set forth in the first six items specified in Messrs. Baldwin & Pennington's communication; and

RESOLVED FURTHER, that the said \$1100 is paid to Messrs. Baldwin & Pennington with the understanding upon the part of that firm and the Board of Public Works that the said amount of \$1100 is to be credited as an advance upon any future bills for subsequent services rendered by Messrs. Baldwin & Pennington for work done in connection with the construction, &c., of a new State Tobacco Warehouse, if the erection of said new warehouse is subsequently decided upon; and

RESOLVED FURTHER, that the payment of said \$1100 be charged to the present State Tobacco Fund, on account of repairs to the present tobacco warehouses.

The bill of Raleigh C. Thomas for \$60. for surveys made of the State Tobacco Warehouse site on the Northeast corner of Charles and Conway Streets (\$32) and the State Tobacco Warehouse site on the Southeast corner of Charles and Conway Streets (\$28), said work having been ordered by Messrs. Baldwin & Pennington in connection with the preliminary work for the proposed new warehouse under chapter 804 of the Acts of 1906, was ordered paid and charged to the present State Tobacco Fund, this work being a proper charge against said Fund, as it was incurred in connection with the present State warehouses.

On motion, the following amounts were ordered paid the gentlemen named below in compensation of expenses incurred by them in traveling to and from Baltimore to attend meetings of the State Tobacco Warehouse Building Commission;

John H. Drury,	\$30
Adrian Posey,	20
William B. Clagett	20
Gordon T. Atkinson, Comp.	30

Said amounts to be charged to the State Tobacco Fund, as the services of the members of the Commission, up to the time Chapter 804 of the Acts of 1906 was declared unconstitutional, were rendered largely in connection with the discussion of the feasibility of repairing or enlarging the present State Tobacco Warehouses.

On motion of General Vandiver, seconded by Dr. Atkinson, the following resolution was adopted;

WHEREAS, Robert S. Hart was elected by the State Tobacco Warehouse Building Commission, at its first meeting, as Secretary of said Commission, and has done all the clerical work of said Commission, in ad-

dition to recording the minutes of its proceedings; and

WHEREAS said work was done largely in connection with the improvements and repairs to the State Tobacco Warehouses;

THEREFORE BE IT ORDERED, that said Robert S. Hart be paid out of the State Tobacco Fund the sum of \$50.

On motion of the Comptroller, seconded by the Treasurer, it was ORDERED, That Mr. Charles W. Haslup, superintendent of public buildings and grounds, be put in entire charge and control of the cleaning of all the public buildings at Annapolis.

After a statement from Mr. Pennington it was

RESOLVED, on motion of the Governor, seconded by the Comptroller, that the Treasurer's and Comptroller's offices, in Annapolis, be painted under the supervision of Mr. Pennington, at a price not to exceed \$725.

On motion of the Comptroller, seconded by the Treasurer, the Board, at 1.45 p. m. adjourned, to meet in Annapolis on Thursday, June 13th,

R. S. Hart,

Acting Secretary.

Orval Gilgman
Secretary